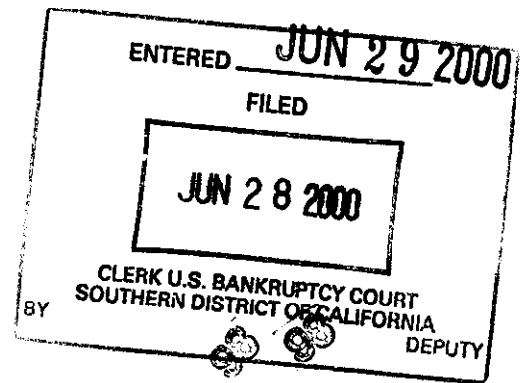


1 L. Scott Keehn (SBN 61691)  
 2 Lynn M. Beekman (SBN 149325)  
 3 Lisa L. Keehn (SBN 167696)  
**ROBBINS & KEEHN APC**  
 4 530 B Street, Suite 2400  
 San Diego, CA 92101  
 Telephone: (619) 232-1700

5 Attorneys for Debtor  
**SARA NEWSOME BURNS**



8 **UNITED STATES BANKRUPTCY COURT**  
 9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 In Re:

11 **SARA NEWSOME BURNS**, an individual,  
 12 Debtor.

**CASE NO. 99-33191-B7**

**ORDERS:**

(1) **GRANTING DEBTOR'S MOTION TO  
 AVOID JUDICIAL LIEN PURSUANT TO 11  
 U.S.C. §522(f);**

(2) **AVOIDING JUDICIAL LIEN;**

(3) **FIXING AMOUNT OF SURVIVING  
 JUDICIAL LIEN AND;**

(4) **RESERVING JURISDICTION TO  
 ENFORCE LIEN AVOIDANCE**

DATE: June 26, 2000  
 TIME: 11:00 a.m.  
 DEPT: Four (4)

20 The motion of Sara Newsome Burns, as Debtor herein ("Burns") to avoid the judicial lien in  
 21 favor of Bradley L. Proulx (the "Motion") came on regularly on June 26, 2000, at 11:00 a.m. in  
 22 department 4 of the above entitled Court located at 325 West F Street, San Diego, California the  
 23 Honorable Peter W. Bowie, Judge Presiding. Appearances were made by the firm of Robbins &  
 24 Keehn, by L. Scott Keehn, on behalf on Burns, and the firm of Sampson & Associates, by Bryan D.  
 25 Sampson on behalf of secured creditors Bradley L. Proulx ("Proulx").

26 The Court, had reviewed the pleadings and papers filed in support of the Motion as well as the  
 27 papers filed in opposition thereto, and observed that the parties had, in open session, stipulated and  
 28 agreed as to the fair market value of the Debtor's residence as of the petition date, as well as the

In re: Sara Newsome Burns  
 Case No. 99-33131-B7  
 Orders: Granting Debtor's Motion to  
 Avoid Judicial Lien Etc.

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1 amounts then due and owing on the judgment secured by the judicial lien in favor of Proulx, and the  
 2 respective amounts of all other liens on the property; and the parties further stipulating that no other  
 3 material facts necessary to the resolution of the Motion were in controversy. Based upon the  
 4 pleadings, papers, evidence submitted and stipulations made and acknowledged by the parties in open  
 5 session the Courts' findings of fact and conclusions of law were stated orally by the Court, and  
 6 recorded in open session following the close of argument, and, are incorporated herein by this  
 7 reference pursuant to Rules 7052 and 9014 of the Federal Rules of Bankruptcy Procedure and Rule  
 8 52(a) of the Federal Rules of Civil Procedure. Based upon the foregoing, and good cause therefore  
 9 appearing,

10 IT IS HEREBY ORDERED that:

11 1. The Motion is granted.

12 2. Without limiting the generality of the foregoing, the Court further and specifically  
 13 orders, adjudges and decrees that:

14 2.1 The judicial lien in favor of Bradley L. Proulx created by the abstract of  
 15 judgment recorded in the Office of the County Recorder of the County of San Diego on November 6,  
 16 1998, as document number 1998-0725547, a copy of which is attached hereto marked Exhibit "1" and  
 17 incorporated herein by this reference (the "Judgment Lien") impairs the Debtor's homestead exemption  
 18 declared with respect to her residential property commonly know as 4621 & 4623 Kensington Drive  
 19 in San Diego, California, and more particularly described in Exhibit "2" attached hereto and  
 20 incorporated herein by this reference (hereinafter the "Property"), to the extent of Two Hundred Sixty  
 21 Thousand, Nine and 02/100 Dollars ("260,009.02"). This impairment has been calculated and  
 22 determined as follows:

23 Fair market value of the property as of petition date	\$300,000.00
24 First Deed of Trust Lien "Bank of America"	\$140,649.46
25 Second Deed of Trust - Western Family etc.	<u>\$11,529.56</u>
26 Available equity prior to homestead and Judgment Lien	\$147,820.98
27 LESS: homestead exemption	<u>\$125,000.00</u>
28 <b>Equity available to Judgment Lien</b>	<b><u>\$22,820.98</u></b>

In re: Sara Newsome Burns

Case No. 99-33131-B7

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 Avoid Judicial Lien Etc.

Judgment Lien as of petition date. \$282,830.00

Less equity available to Judgment Lien \$22,820.98

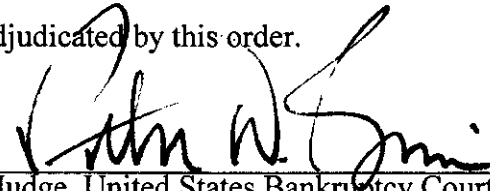
**Total impairment \$260,009.02**

2.2 The Judgment Lien is hereby avoided and extinguished to the extent of \$260,009.02 in accordance with and pursuant to the provisions of 11 U.S.C. §522(f).

2.3 That portion of the Judgment Lien which survives the foregoing avoidance (the "Surviving Lien") is hereby fixed in the amount of \$22,820.98, and no more. Interest does not accrue on this amount, and Burns is entitled to a full release of the Surviving Lien when she tenders a cash payment to Proulx or his successor or designated agent in the amount of the Surviving Lien which is: \$22,820.98. Any attempt by Proulx, or his successors in interest, to collect any sum greater than \$22,820.98 in exchange for a release of the Surviving Lien against the Property, may constitute a violation of the permanent injunction created by the discharge previously entered in favor of Burns in this case, and if so, *inter alia*, would be punishable by this Court as a contempt.

3. The Court expressly reserves continuing jurisdiction to supervise the enforcement of the lien avoidance granted by this order. This reservation of jurisdiction shall be broadly construed to fully carry out the purposes of 11 U.S.C. §522(f), and the intent of this order. It includes, but is not limited to, the issuance of such orders as may be necessary to compel the release of the Surviving Lien upon the tender of payment in the amount of \$22,820.98, as well as any proceedings for contempt in the event that Proulx, or his successors in interest, fail to give full faith in credit to and abide by, the avoidance of the Judgment Lien adjudicated by this order.

Dated: JUN 28 2000

  
Judge, United States Bankruptcy Court

Signature by the attorney constitutes a certification under Fed. R. Bankr. P. 9011 that the relief provided by the order is the relief granted by the court.

[ORDER PRESENTED BY AND APPROVED AS TO FORM ON FOLLOWING PAGE]

In re: Sara Newsome Burns

Case No. 99-33131-B7

Orders: Granting Debtor's Motion to  
Avoid Judicial Lien Etc.

1 **ORDER PRESENTED BY:**

2 **ROBBINS & KEEHN, APC**

3  
4  
5 By: L. Scott Keehn  
6 L. Scott Keehn  
Attorneys for Sara Newsome Burns

7  
8 **APPROVED AS TO FORM AND CONTENT**

9 **SAMPSON & ASSOCIATES**

10  
11   
12 By: Bryan D. Sampson  
13 Bryan D. Sampson  
Attorneys for Bradley L. Proulx

ROBBINS & KEEHN, APC  
ATTORNEYS AT LAW  
2400 UNION BANK BUILDING - 5TH FLOOR  
SAN DIEGO, CALIFORNIA 92101  
TELEPHONE (619) 591-1100 · TELECOPIER (619) 544-5053

PLEASE COMPLETE THIS INFORMATION

RECORDING REQUESTED BY:

T. Michael Reed Esq.  
Cathy Gerry Reed & Schenk  
AND WHEN RECORDED MAIL TO:  
Cathy Gerry Reed & Schenk  
110 Laurel St.

San Diego, CA  
92101

DOC # 1998-0725547

545

NOV 06, 1998 12:15 PM

OFFICIAL RECORDS  
SAN DIEGO COUNTY RECORDER'S OFFICE  
GREGORY J. SMITH, COUNTY RECORDER

FEES: 13.50

NOTICES: 1

THIS SPACE FOR RI



1998-0725547

Abstract of Judgment

(Please fill in document title(s) on the this line)

THIS PAGE ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION  
(Additional recording fee applies)

546

982(a)(1)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name of): <input checked="" type="checkbox"/> Recording requested by and return to: <b>T. Michael Reed, Esq.</b> <b>CASEY, GERRY, REED &amp; SCHENK</b> <b>110 Laurel Street</b> <b>San Diego, CA 92101</b>		TELEPHONE NO.: <b>(619)238-1811</b>	FOR RECORDER'S USE ONLY
<input checked="" type="checkbox"/> ATTORNEY FOR <input checked="" type="checkbox"/> JUDGMENT CREDITOR <input type="checkbox"/> ASSIGNEE OF RECORD			
NAME OF COURT: <b>SUPERIOR COURT OF CALIFORNIA</b> STREET ADDRESS: <b>County of San Diego, Central Branch</b> MAILING ADDRESS: <b>220 West Broadway</b> CITY AND ZIP CODE: <b>San Diego, CA 92101</b> BRANCH NAME:			
PLAINTIFF: <b>BRADLEY PROULX</b>  DEFENDANT: <b>SARA NEWSOME BURNS, et al.</b>			
<b>ABSTRACT OF JUDGMENT</b>		CASE NUMBER: <b>711064</b>	

1. The ☒ judgment creditor ☐ assignee of record applies for an abstract of judgment and represents the following:
- a. Judgment debtor's

Name and last known address

**Sara Newsome Burns**  
**4621 Kensington Drive**  
**San Diego, CA 92116**

- b. Driver's license No. and state:

c. Social Security No.: **354-56-0231**

- d. Summons or notice of entry of sister-state judgment was personally served or mailed to (name and address): **SEE ABOVE-PER R. BOND**

☒ Unknown  
☐ Unknown

- e. ☐ Additional judgment debtors are shown on reverse.

Date: **November 4, 1998**

**T. MICHAEL REED**

(TYPE OR PRINT NAME)

(SIGNATURE OF APPLICANT OR ATTORNEY)

2. a. ☒ I certify that the following is a true and correct abstract of the judgment entered in this action.

- b. ☐ A certified copy of the judgment is attached.

3. Judgment creditor (name): **Bradley Proulx**

whose address appears on this form above the court's name.

4. Judgment debtor (full name as it appears in judgment):

**SARA NEWSOME BURNS**

6. Total amount of judgment as entered or last renewed:  
**\$ 231,462.61**

7. ☐ An ☐ execution ☐ attachment lien is endorsed on the judgment as follows:

a. Amount: \$

b. In favor of (name and address):

5. a. Judgment entered on (date): **Oct. 30, 1998**  
 b. Renewal entered on (date):  
 c. Renewal entered on (date):

8. A stay of enforcement has

a. ☒ not been ordered by the court.

b. ☐ been ordered by the court effective until (date):

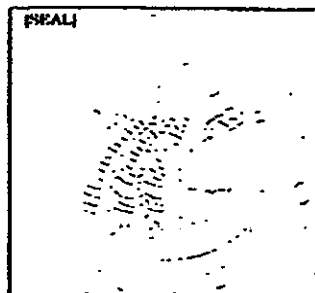
9. ☐ This judgment is an installment judgment.

This abstract issued on (date): **NOV 06 1998**

Clerk, by

**LEE ANN MCALISTER**

Deputy



EXHIBIT

The Property  
Bankruptcy No. 99-33191-B7  
Southern District of California

"Orders: (1) Granting Debtor's Motion to Avoid Judicial Lien Pursuant to 11 U.S.C. §522(f) etc."

The land referred to is situated in the County of San Diego, City of San Diego, State of California, and is described as follows:

Lot 11 in Block 21 of Kensington Park, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 1245, filed in the Office of the County Recorder of San Diego County on April 8, 1910.

EXHIBIT 2